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13
 14 **UNITED STATES DISTRICT COURT**
 15 **DISTRICT OF NEVADA**

16 Paul D. Ortiz,

17 Plaintiff,

18 v.

19 Plusfour, Inc.,

20 Defendant.

Case No.:

**Complaint for damages under the Fair
 Debt Collection Practices Act, 15
 U.S.C. § 1692 et seq.**

Jury trial demanded

21
 22 **Introduction**

- 23 1. In enacting the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.
 24 (the “FDCPA”), Congress found abundant evidence of the use of abusive,
 25 deceptive, and unfair debt collection practices by many debt collectors, and
 26 determined that abusive debt collection practices contribute to bankruptcies,
 27 marital instability, the loss of jobs, and invasions of individual privacy. The

FDCPA is intended to eliminate abusive debt collection practices by debt collectors. The Act ensures that law-abiding debt collectors are not competitively disadvantaged, and protects consumers against debt collection uniformly among the States.

2. Paul D. Ortiz (“Plaintiff”), by counsel, brings this action to challenge the actions of Plusfour, Inc. (“Defendant”), with regard to Defendant’s unlawful attempts to collect debt from Plaintiff, causing harm to Plaintiff.
3. Plaintiff makes these allegations on information and belief, with the exception of those allegations that pertain to Plaintiff, which Plaintiff alleges on personal knowledge.
4. While many violations are described below with specificity, this Complaint alleges violations of the statutes cited in their entirety.
5. Unless otherwise stated, all the conduct engaged in by Defendant took place in Nevada.
6. Any violations by Defendant was knowing, willful, and intentional, and Defendant did not maintain procedures reasonably adapted to avoid any such violations.

Jurisdiction and Venue

7. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 (federal question jurisdiction).
8. This action arises out of Defendant’s violations of the FDCPA.
9. Defendant is subject to personal jurisdiction in Nevada, as it is registered with the Nevada Secretary of State and conducts business in Nevada, and attempted to collect debt from Plaintiff in Nevada.
10. Venue is proper pursuant to 28 U.S.C. § 1391 because all the conduct giving rise to this complaint occurred in Nevada.

Parties

11. Plaintiff is a natural person who resides in Clark County, Nevada.
12. Plaintiff is alleged to owe a debt, and is a consumer as that term is defined by 15 U.S.C. § 1692a(3).
13. Defendant is a company that offers debt collection services.
14. Defendant uses an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a debt collector as defined by 15 U.S.C. § 1692a(6).

Factual Allegations

15. Plaintiff is alleged to have owed a debt to Desert Radiology for a debt relating to medical care in or around June 2020 (the “debt”).
16. The debt was allegedly incurred primarily for personal, family or household purposes and the debt is therefore a debt as that term is defined by 15 U.S.C. §1692a(5).
17. Sometime thereafter, Defendant claims to have been assigned the right to collect on the debt.
18. Plaintiff disputes ever owing any debt to Desert Radiology or Defendant.

Defendant was unlawfully collecting an amount that was neither expressly authorized by any agreement nor permitted by law

19. In or about June 2020, Defendant began to collect debt from Plaintiff, including reporting the alleged debt “in collections” on Plaintiff’s credit reports.
20. Plaintiff never owed any debt to Desert Radiology and disputed the debt directly with Defendant.

1 21. Making matters worse, Defendant had previously committed the same
2 violation and harassment of Plaintiff regarding another medical debt back in
3 2013.

4 22. As such, Defendant was recklessly attempting to collect an amount that it was
5 not entitled to.

6 23. Under the FDCPA, a “debt collector may not use unfair or unconscionable
7 means to collect or attempt to collect any debt.” 15 U.S.C. § 1692f. The Act
8 prohibits “the collection of any amount (including any interest, fee, charge, or
9 expense incidental to the principal obligation) unless such amount is expressly
10 authorized by the agreement creating the debt or permitted by law.” 15 U.S.C.
11 § 1692f(1).

12 **Plaintiff’s damages**

13 Plaintiff has suffered emotional distress and mental anguish as a result of
14 Defendant’s actions described herein. In addition, Plaintiff incurred out-of-
15 pocket costs and time in attempts to dispute Defendant’s actions. Plaintiff
16 incurred additional damages associated with Defendant’s reporting a
17 collection account on his credit, ruining his credit and resulting in several
18 credit denials because of Defendant's reporting and baseless collection
19 attempts. Plaintiff further suffered humiliation and embarrassment when
20 Plaintiff’s credit was ruined and by Defendant's claims that Plaintiff was in
21 collections and owed the debt, which was false. Plaintiff further suffered
22 humiliation and embarrassment when he needed to seek the help of others,
23 including friends, family, and an attorney, because Plaintiff felt helpless
24 against Defendant.
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26
27

Count One**Fair Debt Collection Practices Act****15 U.S.C. §§ 1692 et seq.**

24. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs of the Complaint as though fully stated herein.

25. Defendant's conduct also violated § 1692d in that Defendant engaged in conduct the natural consequence of which was to harass, oppress, or abuse any person in connection with the collection of a debt. Specifically, Defendant's demand for Plaintiff to pay, after Plaintiff disputed the debt, and given the parties' prior history, had the natural consequence to harass, oppress, or abuse a consumer.

26. Defendant's conduct violated § 1692e by using false, deceptive, and misleading representations and means in connection with the collection of any debt.

27. Defendant's conduct violated 15 U.S.C. § 1692e(2) in that Defendant falsely represented the amount and the legal status of the debt .

28. Defendant's conduct violated § 1692e(5) by threatening to take action against Plaintiff which could not be legally taken in connection with the debt.

29. Defendant's conduct violated § 1692e(10) in that Defendant employed various false representations and deceptive means in an attempt to collect the debt from Plaintiff.

30. Defendant's conduct violated 15 U.S.C. § 1692f in that Defendant used unfair and unconscionable means to collect a debt.

31. Defendant's conduct violated 15 U.S.C. § 1692f(1) in that Defendant attempted to collect an amount not expressly authorized by the agreement creating the debt or permitted by law.

32. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA.

33. As a result of each and every violation of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1), statutory damages up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

Prayer for relief

34. WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and Plaintiff be awarded damages from Defendant, as follows:

- An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3); and
- Any other relief that this Court deems just and proper.

Jury Demand

35. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: August 30, 2020.

Respectfully submitted,

KIND LAW

/s/ Michael Kind

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